



An  
Bord  
Pleanála

## Inspector's Report ABP-311011-21.

<b>Development</b>	Demolition of commercial unit and the construction of 32 housing units.
<b>Location</b>	Yellow Lane, Knockenrahan Lower, Arklow, County Wicklow.
<b>Planning Authority</b>	Wicklow County Council.
<b>Planning Authority Reg. Ref.</b>	201210.
<b>Applicant</b>	Yellow Lane Business Park Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Yellow Lane Business Park Ltd.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	29 <sup>th</sup> June 2022.
<b>Inspector</b>	Philip Davis.

## Contents

1.0 Introduction .....	3
2.0 Site Location and Description.....	3
3.0 Proposed Development .....	4
4.0 Planning Authority Decision .....	4
4.1. Decision.....	4
4.2. Planning Authority Reports.....	5
4.3. Prescribed Bodies.....	6
4.4. Third Party Observations .....	6
5.0 Planning History.....	6
6.0 Policy Context .....	7
6.1. Development Plan.....	7
6.2. Natural Heritage Designations.....	7
7.0 The Appeal.....	7
7.1. Grounds of Appeal .....	7
7.2. Planning Authority Response .....	8
7.3. Observations .....	8
8.0 Assessment.....	8
9.0 Recommendation.....	17
10.0 Reasons and Considerations .....	17
11.0 Conditions .....	18

## **1.0 Introduction**

This appeal is by the applicant against the decision of the planning authority to refuse permission for the demolition of existing structures and their replacement with an apartment and housing development. The reason for refusal relates to unauthorized development on the site (deposition of materials).

## **2.0 Site Location and Description**

### **2.1. Arklow**

The settlement of Arklow, with a population of just over 13,000 in the 2016 census, is a port town on the south side of the estuary of the River Avoca. The town centre is just south and west of the port. Arklow is Viking in origin, with most development dating from the 19<sup>th</sup> and early 20<sup>th</sup> Centuries. The town extends to the Dublin to Rosslare rail line which runs along the western side of the older town, with more modern suburbs and commercial areas extending west of the railway and south along the coast, as well as on the opposite side of the Avoca River (Ferrybank). The M11 motorway now marks the western extent of the town. The appeal site is just southwest of Arklow railway station, in an area characterised by a mostly low density mix of residential and commercial uses with some vacant land, dating from around the mid 20<sup>th</sup> Century onwards.

### **2.2. Appeal site**

The appeal site is located on the south side of Yellow Lane, formerly a lane connecting the historic town centre and the main road to Dublin, now an urban link road connecting with the R744. Yellow Lane is partially traffic calmed, with a single lane in each way and a continuous footpath on the north side, but a more intermittent path on the southern side. There is a somewhat haphazard mix of commercial, retail and residential uses along this road, with a substantial shopping centre to the north, opposite the railway station. The appeal site is in an irregularly shaped area of land between Yellow Lane and with the cutting for the main railway line to the east. To the west and south of the site are commercial/retail (mostly building supply) uses – these are at a higher level and there is a concrete retaining wall at the boundary with the site. There is a single modern bungalow dwelling (apparently a new dwelling replacing an older cottage) on the north-eastern corner

of the site (not part of the site) – this is at a distinctly lower level than the appeal site. There is suburban housing opposite, and a park to the west, across from the railway line. The railway station and shopping centre are around 10 minutes walk from the site (they are both approximately 200 metres north, but there is no direct footpath). The town centre is approximately 800 metres walk from the site, but a similar time to get there on foot/cycle as Yellow Lane provides a more direct route.

The site is largely unused, mostly paved over with a number of single storey structures on site, mostly related to a former carwashing operation. To the rear of the site are piles of overburden and probably construction waste, which were being moved and sorted during my site visit. This section of the site has an access running between the former carwash service and the commercial buildings on the western side.

### **3.0 Proposed Development**

The proposed development consists of the demolition of an existing 500 sqm commercial unit, the removal of a temporary car wash, and the construction of 32 housing units – 8 no. 1 bed apartments, 8 no 2 bed duplex apartments and 16 no. 3-bedroom houses.

### **4.0 Planning Authority Decision**

#### **4.1. Decision**

The planning authority decided to refuse permission for the following reason:

*The proposed development would result in consolidation of unauthorised development on the site having regard to the existing development of the deposition of materials to form 'made ground' on the site for which no planning permission or waste authorisation exists. The provision of such a form of development unduly impacts on the amenities of the area, public health, the amenities of the adjoining properties, undermines the planning regulations and would be contrary to proper planning and development.*

## 4.2. Planning Authority Reports

### 4.2.1. Planning Reports

- Notes that a previous application was refused for five reasons.
- With regard to the first reason – the provision of a wastewater treatment unit (there is insufficient capacity in the Arklow WWTP), it is noted that the applicant has agreed phasing with Irish Water.
- With regard to the other reasons for refusal, revised designs and additional engineer's reports are submitted to address the design, traffic and related issues.
- Notes that the site is zoned for housing. The density proposed (38.4 per hectare) is considered acceptable, as is the proposed mix of tenure. A number of issues are noted with the design, including the streetscape and the lack of sunlight for private gardens in Blocks 4-6.
- A number of details require confirmation, but parking and access is considered acceptable, and the design is consistent with DMURS.
- It is noted that the development is to be phased in line with Irish Water requirements.
- The site is in Flood Zone C – Low probability of flooding.
- It is considered that no AA or EIAR issues arise.
- A further information request was sent out on foot of this with regard to the design details in addition to a road safety audit and a geotechnical report.
- A final Inspectors report accepted the revised design and Road Safety Audit, but made the following statement:

*'Having regard to the information provided it is considered that while the revised plans and layouts are considered to be an improvement on the original proposal, planning permission cannot be recommended... as, from the report of the Executive Chemist, the site has been subject of a waste disposal area in the past for inert soils and other materials. As planning permission was never granted for such a development, and no waste authorisation was ever sought for the development, the*

*granting of this development which does not include for the retention of the made ground, would result in consolidation of unauthorised development.*

- Refusal for one reason was recommended.

#### 4.2.2. Other Technical Reports

**Roads:** No objections subject to conditions.

**MD engineer:** No objections.

**Housing:** No objections – 3 units to be provided through Section 5.

**Executive Chemist** (following submission of revised information): The report note that five trial holes were dug, and natural ground was not encountered in any, down to 3.5 metres. The material appears to be inert, no asbestos present. It is recommended that all such material be moved off-site before construction.

#### 4.3. Prescribed Bodies

**Irish Water.** No objections but notes issue with WWTP in Arklow.

#### 4.4. Third Party Observations

Two submissions on file supporting the proposed development.

### 5.0 Planning History

**19/635:** Refused by planning authority for five stated reasons, relating to policy, design and layout and consolidation of unauthorised development.

**15/1023** – Retain bored well for carwash. This was granted on appeal by ABP in **PL27.246846** with 6 no. conditions – one of which restricted it to five years from the 24<sup>th</sup> October 2016.

**P119-2004:** Permission refused on appeal for the construction of 74 units on the site.

**PL33.230439:** Permission granted in 2009 on appeal for the erection of a further education building.

## **6.0 Policy Context**

### **6.1. Development Plan**

The site is zoned R28 'New Residential' in the Arklow and Environs LAP 2018. Arklow is a designed 'Level 3' growth town in the Wicklow County Development Plan 2016-2022.

### **6.2. Natural Heritage Designations**

The nearest EU designated habitat is approximately 5 km to the north, the Buckroney-Brittas Dunes and Fen SAC 000729. The Kilpatrick Sandhills SAC 001742 is a similar distance to the south. Both are marine coastal habitats. There are a number of proposed NHA's in and around Arklow. The Slaney River Valley SAC (000781) is just under 10km to the south-west, but the appeal site is not within this river catchment.

### **6.3. EIAR**

Having regard to the nature of the proposed development, its relatively small scale within an existing urban area zoned for residential development, and the absence of any sensitive receptors in the immediate vicinity, the development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded and a screening determination is not required.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

- It is argued in some detail – with historical documents attached in support – that the infill took place during works in the area in the early 1950's and 60's, prior to the enactment of planning and waste licensing regulations.
- It is argued in the light of the above that the reason for refusal is unjustified and the applicants were not given sufficient opportunity to respond.

## **7.2. Planning Authority Response**

- The planning authority has no objection to the principle of development on the site. It is satisfied with the design and layout of the development.
- It is noted that sewers within the site had to be reconstructed in recent years.
- It is stated that there is visible evidence (palisade fencing partially buried) that recent infilling of the site has taken place subsequent to the works indicated by the applicant in the 1950's.

## **7.3. Observations**

None on file.

## **8.0 Assessment**

Having inspected the site and reviewed the file documents, I consider that the appeal can be addressed under the following general headings:

- Principle of development
- Made Ground/waste issue (planning and other legal implications)
- Design and context
- Amenity
- Drainage, water supply and flooding
- Flooding
- Traffic and Transport
- Appropriate assessment
- Other issues

## **8.1. Principle of development**



The site is in an area zoned R28 'New Residential' in the Arklow LAP 2018 with the zoning objective: '*To protect, provide and improve residential amenities at a density up to 28 units/ha*'. The description with the zoning states that:

*To facilitate for the provision of high quality new residential developments at appropriate densities with excellent layout and design, well linked to the town centre and community facilities. To provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities.*

The LAP identifies a potential for 19 units on the site.

Any such development would be expected to conform to the development criteria set out in the Development Plan at the time of the decision, and national guidance including (not exclusively):

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009);

Design Standards for New Apartments (March 2019 and updated)

Urban Development and Building height Guidelines 2018;

Design Manual for Urban Roads and Streets (2013);

Smarter Travel – A New Transport Policy for Ireland (2009-2020);

The Planning System and Flood Risk Management (2009);

Childcare Facilities: Guidelines for Planning Authorities (2001).

The appeal site is vacant and largely unused, but clearly has a significant history of commercial use, much of which may date back to the early 1960's at least. The planning history indicates a mix of refusals and grants, but I note from the last Board decision for a major development on the site (an institutional development), the general principle of residential development was accepted. A previous application on the site was also refused for similar reasons to this appeal, but I note that the planning authority state that the other four quoted reasons for refusal had been addressed adequately.

The site is well within the development envelope of the town of Arklow and is within 10 minutes walk of the traditional town centre and harbour, in addition to the Arklow Railway station and the adjoining major shopping centre. As such I would consider

it suitable for high density development within the context of the national policy documents listed above. The surrounding residential areas are generally of low to medium density and appear to date from within the past few decades. The adjoining retail commercial development includes quite large bulky structures so I do not consider that there are visual constraints to buildings of 3 storeys in height or above. I note that there is a particular issue within Arklow with further major developments being kept on hold due to capacity issues with the Arklow WWTP. I will address this in the relevant section below.

## **8.2. Made Ground/waste issue (planning and other legal implications)**

The single ground of refusal relates to the belief of the planning authority that the existing site is on infill material which constitutes unauthorised development (and hence its refusal would require planning permission) and may require a waste license. The basis for this is visual evidence and the geophysical survey submitted by the applicant which indicated made ground down to at least 3.5 metres on one test pit, plus visual indications of possible more recent infilling. It is also noted by the planning authority that the recent construction of a sewer through the site proved problematic for unstated reasons, but presumably due to the presence of uncompacted infill material.

The applicant has responded with historical documentation including photographs, older maps and surveys, and other documentation in support of the argument that the infill material most likely dates to works in the 1950's (prior to the 1963 Act or waste acts) and available evidence is that it is uncontaminated – this appears to have been confirmed by the Council environmental officer on visual inspection of the five pits. It is argued that such infilling was typical of the period, especially adjoining railway lands, and as such does not require planning permission either for retention, removal, or a waste license, beyond the normal licensing requirements for the removal of materials from a construction site.

On my site visit, I observed the following:

- The site is largely paved over, and has likely been so for a significant amount of time – there has been no substantive change since the last appeal on the site in 2016.

- At the time of my site visit, approximately one third of the site – the rear (southern) section), was active – there were significant amounts of what appeared to be overburden or construction waste being moved and sorted. This was not being used as infill, it was stored on an existing hardcore or concrete surface.
- A section of the site – at the boundary with the bungalow to the north-east of the site, seems on visual inspection been raised within relatively recent years – the vegetation cover is not mature. There are signs of disturbance on this part of the site, possibly arising from the trial pits dug for the geo-investigation.

From my reading of the submitted materials, and looking through available online information data bases, and my site visit, I would make the following observations:

- The older OS plans (19<sup>th</sup> and early 20<sup>th</sup> Centuries) indicate that the site was farmland when the railway was built. There is no evidence from these older plans that the land was part of railway lands or was raised or infilled as part of the construction of the embankment.
- From the mid-20<sup>th</sup> century onward, it is clear that there was substantial works to the landform of the site and the commercial area to the west, which most likely involved the importation of a significant amount of most probably inert construction and demolition waste. It is unclear if this involved a substantial land raise, or if there was some removal of material (i.e. localised quarrying) prior to this. The majority of these works most likely took place in the immediate post-war years, when there were minimal statutory controls over such works – indeed it may well have been considered best practice at the time. From the trial pits however, it would seem that this material was unconsolidated, which would make it unsuitable for building substantive buildings over it without either its removal or re-engineering and consolidation.
- The evidence suggests that the material was not significantly contaminated by what would now be considered hazardous materials, although it can not

be ruled out definitively that asbestos or other such materials were disposed of on the site.

- An infilling operation did take place to the rear of the bungalow on the adjoining site when it was recently rebuilt – this was carried out under a Certificate of Registration from the waste management department (the details are in the documents submitted with the planning application) issued in 2019. This appears to have been carried out in accordance with all regulations pertaining at the time.
- I would not rule out that additional materials seem imported and infilled on the site in more recent times – a section at the boundary with Yellow Lane next to the adjoining bungalow. However, much of this seems to have been present in 2016 (based on the photographs in the inspectors report for PL27.246864) and seems not to have involved a particularly large amount of material.

There are no specific laws relating to contaminated land on development sites in Ireland – its removal/treatment is subject to licensing from the waste authority and in some cases, the EPA. There is significant ambiguity about the planning status of material brought in to create appropriate new levels for a permitted development, although if the material is unambiguously ‘waste’ as defined under the Regulations, this usually requires a specific planning permission. The precise definition of when inert materials originating from other sites (perhaps surplus from another construction site) becomes ‘waste’ or just a ‘construction material’ has changed over the years and without knowing the precise date of the last importation of material it is not possible to apply a strict definition.

Notwithstanding this, I conclude on the balance of evidence that the material under the site does not constitute an unauthorised development under the definitions set out under the relevant Acts, or the relevant court interpretations of what constitutes ‘waste’. I am satisfied that the substantive proportion of the material was deposited prior to 1963, and that any other infilling of material consequent to this occurred at least 10 years ago and there are no records of complaints at the time or enforcement action by the planning authority. There is evidence of some more recent infilling in the north-eastern corner of the site, but I would not consider the nature or extent of this to be of such a scale that would preclude granting planning permission.

I would therefore conclude that the material does not constitute unauthorised development and does not require a separate planning permission or a specific mention in the planning notice.

It is clear that much of the subsurface material on site is not suitable for the proposed construction and will require either disposal, or engineering consolidation within the site. I do not consider that there is evidence on file to indicate that these works are over and above what would be normal on any site with less than ideal geology for construction, whether the reason is natural or the result of historic activities/works. I would recommend that the site be subject to a specific condition on a construction management plan to ensure that any substantive excavation or other works is fully addressed to the satisfaction of the planning authority prior to the commencement of works on the site. Any licensing or other statutory requirements pertaining to the removal or consolidation of the material is a matter for the relevant authority and of course the provisions of S.34(13) of the Act applies in such circumstances. I would further note that any grant of permission does not infer permission for any works ongoing on the site which may be unauthorised.

### **8.3. Design and Context**

The proposed development includes the demolition of existing buildings on the site and their replacement with a total of 32 housing units (this is well in excess of the 19 identified as a target for the site in the LAP, but I consider it to be consistent with national policy). Density is just over 26 units per hectare. The proposed development includes for 16 apartments in addition to 3 bed dwellings, which the planning authority consider acceptable due to the close proximity to the town centre and railway station – I would concur with this conclusion. The planning authority notes that the apartments set out the standards in Appendix 1 of the Sustainable Urban Housing Guidelines and the 3 bed dwellings meet the standards as set out in Table 5.1 of 'Quality Housing for Sustainable Communities 2007'. The planning authority also considers the overall mix of size and tenures to be acceptable. I concur with this conclusion.

The site is currently somewhat unsightly at a key entrance to the town. In general, along Yellow Lane, there are attractive landscaped areas between the lane and a number of residential developments on the northern side, while the southern side of the lane is dominated by the large block structures of the commercial lands to the

west of the site. Otherwise, development is somewhat haphazard. The original application turned the gables of the houses towards the lane but following the FI this was altered – I consider the revised layout to be a very significant improvement. Ideally, the design would address the main road with a stronger set of elevations with a simpler, more contemporary design, and not be set back for carparking and access roads, although noting the similar arrangement for the development across the road, I consider it to be acceptable.

Given the overall context and size and shape of the site, I concur with the assessment and conclusion of the planning authority that the design is in accordance with all statutory guidance and is acceptable, subject to further landscaping which can be addressed through condition.

#### **8.4. Amenity**

The planning authority expressed concerns at some elements of the design with regard to daylight accessing the rear gardens of some of the houses due to the orientation next to the commercial buildings to the west. The revised submissions addressed this to the planning authority's satisfaction. I note that neither Wicklow County Development Plan nor the Arklow LAP refer to the BRE guidance with regard to overshadowing and Daylight and they do not set out specific quantitative standards, apart from those set out in national guidance on apartment and housing developments. A sunlight assessment was submitted with the original application.

The dwellings on the site are aligned on an east-west axis, and are generally oriented in such a way that there is no privacy or other impacts with each other. The main sunlight issue is that in the evenings the large adjoining warehouse structure and retaining wall will reduce sunlight significantly to some of the gardens. But they will receive midday sun and would generally be acceptable. The apartments have a good aspect and all individual apartments meet the stated guidelines including BRE guidelines.

There is one dwelling next to the site, a bungalow on Yellow Lane next to the railway line. The nearest apartment building is sufficiently separated that it will not interfere with daylight, with just a possible shadow later in the evening into the garden. The orientation of the units are such that there would be no overlooking of the rear garden or windows of this dwelling beyond a normal acceptable level.

I therefore conclude that I concur with the assessment of the planning authority that there are no amenity issues with the revised design as submitted, either for neighbouring residents or the new dwellings.

#### **8.5. Drainage, water supply and flooding**

The appeal site is connected to the public water supply and public sewer. I note that the Arklow WWTP is considered to be at or near capacity and a new upgraded facility is pending. The applicants have a phasing agreement with Irish Water which I consider acceptable in principle – I would recommend a condition to confirm the details.

The applicants propose a Suds type approach to design, including the incorporation of porous paving. This is acceptable to the planning authority subject to the confirmation of details (including an increase in the climate change allowance factor for the stormwater drain).

The site is in a low risk flood zone (Flood Zone C) – there are no indications from existing sources that the site is subject to pluvial or fluvial flooding.

#### **8.6. Traffic**

The proposed development includes 52 spaces, including 2 disabled spaces, with bike parking for the apartments in line with development plan levels. This is in line with LAP guidelines and the planning authority considered it acceptable. The site is within easy walking and cycling distance of most town facilities, including the railway station.

The original application was not considered to be in accordance with DMURs, but the planning authority state that the revised proposals are acceptable. A Road Safety Audit was also considered to be acceptable. The proposed entrance has good sight lines and subject to some revisions (set out in the planner's report) is in line with DMURs and other such requirements.

I conclude that the proposed development is acceptable with regard to parking (including bike parking) provision and access.

#### **8.7. Appropriate assessment**

The appeal site is within an urban area, long developed and associated with the 19<sup>th</sup> century adjoining railway. The nearest EU designated habitat is approximately 5 km to the north, the Buckroney-Brittias Dunes and Fen SAC 000729. The Kilpatrick Sandhills SAC 001742 is a similar distance to the south. Both are marine coastal habitats. There are a number of proposed NHA's in and around Arklow. The Slaney River Valley SAC (000781) is just under 10km to the south-west, but the appeal site is not within this river catchment. There are no watercourses on the site and the older OS plans do not indicate any historic drains or streams on the site or in the vicinity. The site is fully serviced for drinking water and wastewater.

The designated habitats within 10 km are all associated with coastal bird life or coastal/estuarine species. The site is largely paved over and as such as none of the species listed in the qualifying interests present and would not have any value for foraging or breeding away from the designated areas. The buildings on site are vacant but there is no evidence of the presence of bats or other species protected under the Wildlife Act. There are no pathways for pollution from the site to any of the protected fresh or salt water habitats. Sewage and water services go through the site, but these connect to permitted and managed facilities. The planning authority carried out a screening and concluded that there would be no adverse impacts on the qualifying interests of any of the Natura sites. I concur with this conclusion.

I have examined the screening in the context of my site visit and other available sources of habitat and environmental data and I am satisfied that it includes sufficient information to allow the Board to carry out a complete assessment of all aspects of the project. I am therefore satisfied that a conclusion of no adverse effects can be reached. I am therefore satisfied, that the proposed development, in itself or in combination with other plans or projects would not be likely to have a significant effect on the integrity of European sites no. 000729 or 001742, or any other European site, in view of these sites Conservation objectives and thus a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **8.8. Other issues**

I do not consider that there are any other substantive issues arising in this appeal. There are no protected structures or recorded ancient monuments in the vicinity.



The proposed development would be subject to a Part V agreement and a S.48 financial contribution.

## **9.0 Recommendation**

I recommend that the Board grant permission for the proposed development subject to the conditions set out below, for the following reasons and considerations.

## **10.0 Reasons and Considerations**

In coming to its decision, the Board had regard to the following:

- a) The site's location on lands with a zoning objective for new residential and the overall policies and objectives of the Wicklow County Development Plan 2018 and the Arklow Local Area Plan 2008;
- b) The nature, scale and design of the proposed development and the availability in the area of a wide range of social infrastructure in addition to the pattern of existing and permitted development in the wider area;
- c) The nature and extend of fill material and made ground under the site which, it is considered, has been on the site for sufficient time that it is not considered waste and can be addressed under normal good practice procedures for the construction of dwellings on brownfield and previously developed sites;
- d) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- e) Urban Development and Building Height Guidelines 2018
- f) The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- g) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- h) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018;

- i) The Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018;

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban location, would not represent the consolidation of unauthorised development, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area, would not constitute a flood hazard and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further information received on the 14<sup>th</sup> June 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, the matter in dispute shall be referred to An Bord Pleanála for determination.

**Reason: In the interest of clarity.**

2. Details of the materials, colours and textures of all the external finishes to the proposed apartment blocks shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason: In the interest of visual amenity.**

3. Proposals for the development name and dwelling numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and dwelling numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

4. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

5. The applicant or developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development. All phasing of development shall be in accordance with this agreement and no occupation of the dwellings will be permitted until Irish Water has confirmed in writing that sufficient capacity in the Arklow WWTS exists to facilitate the additional loads.

**Reason:** In the interest of public health.

6. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

**Reason:** In the interest of public health.

7. Prior to the commencement of development, the developer shall retain the professional services of a qualified Landscape Architect as Landscape Consultant throughout the life of the site development works and shall notify the planning authority of that appointment in writing. The developer shall engage the Landscape Consultant to procure, oversee and supervise the landscape contract for the implementation of the permitted landscape proposals. When all landscape works are inspected and completed to the satisfaction of the Landscape Consultant, he/she shall submit a Practical Completion Certificate (PCC) to the planning authority for written agreement, as verification that the approved landscape plans and specification have been fully implemented.

**Reason:** To ensure full and verifiable implementation of the approved landscape design proposals for the permitted development, to the approved standards and specification.

8. All parking areas serving the apartments shall be provided with ducting for electric vehicle charging points. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** in the interest of sustainable transportation.

9. Prior to commencement of development the developer shall submit and obtain the written agreement of the planning authority, a plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and for the ongoing operation of these facilities.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

10. The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

**Reason:** In the interests of public safety and residential amenity.

11. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

12. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

14. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Development Contribution Scheme made under section 48 of the Act be applied to the permission

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Philip Davis  
Planning Inspector

30<sup>th</sup> June 2022